

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with RUZICH, ELIZABETH (54,416) on 4/9/2008.

The application has been amended as follows:

22. (Currently Amended) An apparatus for transmitting electronic messages in a computer environment, comprising:

a ~~module~~mobile device for receiving an original electronic message addressed to a telephone number;

a ~~module~~dynamic message control server for determining an instant message identifier associated with the telephone number;

a ~~module~~the dynamic message control server for determining in real time whether an instant message receiver is currently available to receive messages addressed to the instant message identifier;

a ~~module~~the dynamic message control server for forwarding the electronic message an instant message addressed to the instant message identifier in response to a determination that an instant message receiver is available to receive instant messages addressed to the instant message identifier; and

~~a module~~ the dynamic message control server for sending the electronic message to a mobile device at the telephone number in response to a determination that no instant message receiver is available to receive instant messages addressed to the instant message identifier.

The following is an examiner's statement of reasons for allowance: As applicant argues in remarks dated 1/23/2008 and 8/29/2007 the electronic message originates directed to a telephone number. This differs from the prior art in that most instant messages are not directed a telephone numbers. Also as the applicant argues, the present invention makes the determination of if the client is able to receive messages not based on the conventional method of checking if the receiver is away, but if the receiver is able to receive messages. Further this determination is made in real-time as opposed to convention where the user would specify where to redirect the messages to, at an earlier time. Additionally, based on the determination the default destination is an address the message was not originally addressed to and only if this alternative destination the message forwarded to the original phone number.

Also the present invention is subject to a terminal disclaimer with patent 6,714,793. Therefore for the reason discussed above in addition to those presented by the applicant the present invention distinguishes over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Notice of references cited (if appropriate).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay M. Bhatia whose telephone number is (571)-272-3906. Also any interview requests should be faxed directly to the examiner at (571)-273-3906. The examiner can normally be reached on M-F 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145